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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,370	02/20/2004	Kousuke Touna	04098/LH	2411
1933 7590 08/14/2008 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
WASHINGTON, JAMARES				
ART UNIT		PAPER NUMBER		
2625				
MAIL DATE		DELIVERY MODE		
08/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/783,370	Applicant(s) TOUURA, KOUSUKE
Examiner JAMARES WASHINGTON	Art Unit 2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-16, 18-36, 38 and 39.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/King Y. Poon/
 Supervisory Patent Examiner, Art Unit 2625

Continuation of 11, does NOT place the application in condition for allowance because: The claims were not found to be patentable over the cited prior art of record. The arguments presented by Applicant are not persuasive.

Regarding the argument that Tanaka et al does not disclose or suggest the feature of the present invention as recited in amended independent claims 1, 13, 22 and 34 whereby the shift of the measurement timing is detected by using the timing at which a measured value having a largest change of measured light quantity value in a vicinity of the specified timing is measured. Examiner disagrees and maintains previous grounds of rejection. Tanaka et al teaches at Col. 9 lines 44-48 wherein the first sampling value is compared to other sampling points within the gradation detection process at a specified timing. At least one of these sampling values which are compared to the value at the first starting point would have to be a value having a largest change of measured light quantity which clearly reads on the claimed shift of measurement timing being detected by using the timing at which a measured value having a largest change of measured light quantity value. The fact that the first sampling point is compared to several subsequent sampled gradations, one would be furthest in gradation from the first sampling point; therefore the reference is clearly capable of performing the claimed subject matter.

Applicant claims the Tanaka et al technique is inferior because it would be difficult to accurately correct the measurement timing if noise is imposed on sampling data. This mere allegation is irrelevant and unfounded. Applicant has not claimed or clearly explained the aspect of imposing noise on his/her own invention nor how the cited reference would behave if noise is introduced. Applicant has no basis to support such an argument.

Regarding the argument taken the the Officially Noticed subject matter: The Officially Noticed subject matter is taken to be admitted prior art because the traverse is inadequate. Applicant failed to timely traverse the Officially Noticed subject matter presented in the Non-Final Action dated July 31, 2007.

In addition, an adequate challenge to Official Notice is an explanation as to why the noticed fact is NOT considered to be common knowledge or well-known in the art. Applicant has not provided an explanation as to why interpolation of data was not a well-known technique performed in many image processing scenarios at the time of the invention.